

Appeal Decision

Hearing Held on 6 June 2023

Site visit made on 6 June 2023

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2023

Appeal Ref: APP/W4705/W/23/3314559

Land adjoining Crossflatts Cricket Club, Keighley Road, Bingley, West Yorkshire BD16 2ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Wasif Hussain against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 20/01995/FUL, dated 29 May 2020, was refused by notice dated 18 July 2022.
 - The development proposed is The conversion/change of use of an existing A3 structure to form a single residential unit (Plot 5). The formation of a single semidetached house (Plots 6 & 7). The formation of a 3no new terraced houses (Plots 8, 9 & 10). The formation of 2no new detached house; (Plots 11 & 12) as well as all the required parking, access road and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Prior to the Hearing, the issue of whether the site should be subject to the sequential test with regard to Flood Risk was identified as a main issue. A sequential test previously carried out was subsequently provided and I have no reason to disagree with its findings. This matter has therefore not been considered as a main issue.
3. The development was in progress at the time of my site visit. What had been carried out at that time appeared to broadly accord with the plans before me. For the avoidance of doubt my decision has been made based on the plans.
4. The description of the proposal has changed from the application form to the decision notice. That on the application form is adequate to describe the proposal although I note that the proposal also includes the installation of 4no. 26m high galvanised lattice towers and 1no. 24m high tower with netting placed in between to facilitate protection to the development arising from the risk of cricket ball strike.

Main Issues

5. The first main issue therefore is the effect of the proposal on the character and appearance of the area with regard to the density of development and the provision of the safety netting and support towers. The second is the effect of

the safety netting support towers on the setting of the Grade II* listed Ryshworth Hall. The third is the effect of the proposal on the living conditions of future occupiers with regard to the outdoor amenity spaces, any overbearing effect as a result of the safety netting and support towers and any noise and disruption arising from the Cricket Club premises.

6. The fourth is whether there would be any unacceptable adverse impact on highway safety as a result of the proposal. The fifth main issue is whether there would be any unacceptable overshadowing or loss of light to the Cricket Club house and pavilion.

Reasons

Character and appearance

7. The character of the area is mixed, with Crossflatts Cricket club and its Cricket Field immediately to the south-east of the appeal site. Further to the south-west is another sports pitch and playing fields. Large and imposing multi storey office buildings sit to the south-west, whilst residential development of varying degrees of density, including terraced properties sit to the north-west and north east, some of which is beyond the busy Keighley Road.
8. The proposal also includes the provision of towers supporting safety netting with the purpose of reducing the risk of ball strike associated with the playing of cricket on the adjacent field. The scheme would consist of 4no. 26m high galvanised lattice towers and 1no. 24m high tower with netting placed in between.
9. Although the site would have a high degree of building coverage, there is nothing to indicate that the density would be so divergent to that already within this mixed use area.
10. Given that the netting is likely to have a high degree of opacity, the most visually obvious factor within this part of the proposals would be the lattice towers. These would form very tall structures which would tower above the properties within the development.
11. When viewed against the imposing office buildings to the south-west, the impact of the lattice towers would be somewhat limited given that the difference in height between that imposing development and the towers would be reasonably limited.
12. However, when viewed from other locations within the area the support towers would form structures of very notable height when viewed against other development of much more limited height.
13. In their galvanised form they would have a rather industrial appearance which would be at odds with the more domestic style and scale of development along with tree cover that is present to the north of the site. In this sense the support towers, especially those at the higher height would form incongruous features which would have a significant adverse impact on the character and appearance of the area.
14. The proposal would therefore conflict with Policy DS1 of the Bradford Core Strategy Development Plan Document (2017) (BCS) which amongst other things requires that development proposals should contribute to achieving good

design and high quality places through being informed by a good understanding of the site/area and its context.

Setting of Ryshworth Hall

15. Ryshworth Hall sits a short distance to the north east of the site, set adjacent to Keighley Road across a lightly wooded area. Its listing description identifies it as a house of complex development, a C16 3-bay hall with later additions and alterations.
16. In considering whether to grant planning permission for development which affects a listed building or its setting, I am required to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
17. The main public views are taken from Keighley Road from where Ryshworth Hall can be viewed as an attractive and well established stone building incorporating attractive features and detailing. It therefore has visual characteristics which make a positive contribution to its significance.
18. It was suggested at the Hearing that the appeal site does not fall within the setting of the building as it is outside of its immediate curtilage. However, by reason of proximity I do not consider that to be the case. There did however appear to be agreement at the Hearing that the appeal site currently makes a neutral contribution to the setting of the building, a position I agree with.
19. In views from Keighley Road the building is framed solely against trees of good height and further in the distance the rising land form on the southern side of the Aire Valley. Given this, the development site has very limited, if any visibility within such views.
20. However, as has been detailed above, there are plans to introduce support towers which would accommodate the protective netting. The Landscape and Visual Assessment Review¹ includes a viewshed based on the 26m high support towers. This identifies visibility from the northern side of Keighley Road and The Crescent.
21. This suggests that it is likely that the towers would be viewed within the backdrop of Ryshworth Hall, something that the appellant could not discount at the Hearing. The appearance of these towers has been described previously, and whilst I accept that they would get slimmer as they got taller, the introduction of features of such modern and industrial appearance would clearly jar with and detract from the visual significance of Ryshworth Hall, harming its setting.
22. The harm to the setting of Ryshworth Hall would be less than substantial. Regardless of the level of less than substantial harm, I must afford this harm considerable importance and weight. Paragraph 196 of the Framework requires such harm to be weighed against any public benefits of the proposal.
23. The public benefits in this case include a contribution to housing supply and some localised economic benefit. Given the identified shortfall, this benefit would be tangible although the positive weight that can be afforded to this matter, is tempered somewhat by a scheme of reasonably limited scale. I do

¹ Landscape and Visual Assessment Review, Ian Spindler, January 2023.

not find that the public benefits are sufficient to outweigh the less than substantial harm identified in this case.

24. The proposal therefore conflicts with Policy EN3 of the BCS which amongst other things requires that all proposals conserve and where appropriate enhance the heritage significance and setting of Bradford's heritage assets.

Living conditions

25. There was discussion at the Hearing around plots 11 and 12, which are on the western side of the development site. The properties on those plots would provide accommodation over three floors. The dwelling forming plot 11 would provide four bedrooms and a study, with that forming plot 12 providing five bedrooms along with a large cinema room on the top floor as well as a study.
26. It was conceded at the Hearing, that there would likely be little that could stop these rooms being used as bedrooms. Therefore, it is not unreasonable to assume that the dwellings could provide as many as 5 and 7 bedrooms respectively.
27. Although small patio areas would be provided to the side of each of these dwellings, there would be very little or no private rear garden to either property, the rear area beyond a pathway indicated on the plans as forming a sloping area. In reality this grassed area forms the bank of Morton Beck.
28. The provision of such a level of outdoor amenity space would be completely unacceptable for dwellings of this size and type. This would leave any residents very little room to carry out normal domestic activities such as sitting outside, drying washing or for children, outside play. The availability of open space within the area would not make up the deficiency.
29. I have not come to the same conclusions regarding the dwellings at plots 6-10, which would be smaller dwellings with very modest, but slightly more usable rear garden areas which could allow the activities above to occur. I also do not consider that the provision of the support towers and netting would significantly harm the living conditions of these occupiers.
30. Plots 6 and 7 are located at the opposite end of the development forming a semi-detached pair. However, by reason of their positioning they are very close to the Cricket Club clubhouse, to the east.
31. It was clarified at the Hearing that the Cricket Club has a licence to run events up until 2am in the morning catering for functions including wedding and birthday parties. These events are likely to involve the provision of alcohol along with the playing of amplified music. I was also able to observe the significant array of glazing that incorporates openable windows on the pitch facing elevation of the Cricket Club buildings during my site visit.
32. Regardless of the position adopted by the Council's Environmental Protection Officer and that the main function room appearing to be within the eastern side of the building, especially during the summer, when residents and the Cricket Club are likely to want to have their windows open, there is the real likelihood of significant noise disturbance to residents of the development site, particularly those towards its eastern end.

33. It was suggested at the Hearing that the matter could be covered by condition. However, I do not find that such a condition would be reasonable given that the level of sound arising from functions at the Cricket Club is unknown, meaning that a mitigation scheme for the dwellings may not achieve its intended function. Further, such schemes often rely on non-opening windows and mechanical ventilation which I consider would be unreasonable.
34. The proposal would therefore be likely to have a significant adverse effect on the living conditions of future occupiers with particular regard to external amenity space at plots 11 and 12 and with regard to noise and disturbance arising from functions and events held at the Cricket Club more especially towards the eastern end of the site.
35. There would consequently be conflict with policies DS5 and EN8 of the BCS which amongst other things require that development proposals should make a positive contribution to people's lives through high quality, inclusive design that should not harm the amenity of prospective residents. Proposals which are likely to result in exposure to noise will only be permitted if measures can be implemented to minimise pollution and risk to a level that provides a high standard of protection for health and amenity.
36. There would also be conflict with SPD² guidance. With regard to houses, it is required to demonstrate that amongst other things that proposals include space for playing and socialising, drying clothes, various storage and a variety of plants and greening.

Highway safety

37. Competing highways evidence was discussed at the Hearing. The majority of the parking associated with the Cricket Club would have to be accessed by driving through the development site.
38. There was no agreement with regard to the curve that would be included within the access road. Amongst other things, the potential for conflict between drivers and pedestrians had been identified by an interested party.
39. However, it was confirmed at the Hearing that anticipated levels of parking requirement for the Cricket Club and traffic movements were identified by discussing the matter with the Cricket Club rather than as a result of any survey of parking level and traffic movements into the car park. This reduces the weight that I can afford to this information.
40. Whilst there could be some overlap with regard to arrivals and departures associated with the varying Cricket sessions offered by the club, I consider it likely that for a large amount of the time vehicle movements to the club would be in at one time and out and another, reducing the opportunity for vehicle movements in opposing directions. I also consider it likely that the curve would act to curtail vehicle speeds, as it is generally the case that drivers will slow in such circumstances where visibility is more limited.
41. Further, it was clarified at the Hearing that at many times when games are not taking place on the pitch, Cricket Club users would be able to park up and then walk across or around the edge of the pitch saving a return walk through the

² Homes and Neighbourhoods: A guide to designing in Bradford, Supplementary Planning Document 2020, Principle 3.5 Outdoor Space.

access road. Although I accept that the car park would be accessed by some users who would be new to the arrangement, many of those trips would be by regular users of the club who would be well aware of the set up and used to taking caution on the approach to the car park. There is nothing to indicate that the resultant parking provision for the club would be unsatisfactory.

42. There would therefore be no unacceptable adverse impact on highway safety as a result of the proposal and consequently there would be no conflict with Paragraph 111 of the Framework³ with regard to this issue.

Overshadowing/loss of light

43. The evidence does indicate that the area immediately to the front of the Cricket Club House and Pavilion would suffer some additional overshadowing through the obstruction of sunlight, particularly between the hours of 18:00-20:00 between July to September.
44. However, evidence indicates that existing parts of this area immediately to the front of the Cricket Club House and Pavilion (where benches are shown to be placed) are in shade to some degree from 19:00 during those summer months. It is therefore clear that this area would not benefit from unblemished evening sunlight in the absence of the development.
45. Therefore, whilst I accept that there would be some loss of sunlight, I cannot conclude on the basis of the evidence that this would be a significant adverse impact. There would likely remain other areas within the sunlight. Further, there is nothing to indicate that the situation would have a significant adverse impact on the viability of the Cricket Club.
46. There is nothing within the evidence to indicate that there would be any unacceptable loss of natural light to the Cricket Club house and pavilion.
47. There would therefore be no conflict with Policy DS5 of the BCS with regard to this particular matter which amongst other things requires that proposals should not harm the amenity of existing users.

Other Matters

48. With regard to the effect of the proposal on the living conditions of nearby occupiers my attention was drawn to housing that had been developed closely adjacent to the appeal site closer to Keighley Road without any apparent issues with regard to noise disturbance. However, that development is on the other side of the Cricket Club building to its principal elevations containing the main windows. It is not therefore directly comparable due to its location and I consequently afford this matter limited weight.
49. A previous outline planning approval for up to 10 residential dwellings has been referenced throughout much of the evidence. However, it was clarified and agreed at the Hearing that this permission has expired and could not be implemented. I therefore afford this matter very limited weight.
50. A completed planning obligation has been submitted which broadly relates to the submission of a ball strike safety scheme, the installation of safety netting and its ongoing management. However, the appeal is dismissed on other

³ National Planning Policy Framework 2021.

substantive grounds and it is not necessary for me to consider this obligation in detail given that the proposal would be unacceptable for other reasons.

51. There was a suggestion at the Hearing, that were I to find issues with the height of the supporting towers for the protective netting, that a lesser height could be conditioned. However, suggesting any other lesser height would be unreasonable given that this would run contrary to the appellants own most recent risk assessment⁴ which indicates that the heights proposed are those required to significantly reduce the frequency of shots landing beyond the boundary.

Other Considerations

52. Set against the harm identified there would be social and economic benefits associated with the proposal. The units would contribute to the overall supply of housing and would provide some support to the local economy both during and after construction within a sustainable location within Crossflats.

Planning Balance

53. The Framework places significant emphasis on achieving well designed places. At paragraph 130, amongst other things, it states that planning decisions should add to the overall quality of the area and be sympathetic to local character as well as create places that promote health and well-being with a high standard of amenity for existing and future users.
54. Therefore, the conflict between the proposal and policies DS1, DS5 and EN8 of the BCS should be given significant weight in this appeal. As the proposal would be contrary to these policies, there would be conflict with the development plan as a whole.
55. The evidence indicates that the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that the shortfall is of significance, identified at 2.08 years. There was no disagreement on this at the Hearing. In these circumstances, footnote 8 of the Framework establishes that the policies which are most important for determining the application are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
56. I accept that there would be economic and social benefits associated with the provision of the scheme and acknowledge the deficiency in supply of deliverable housing sites. However, the contribution would be modest in relation to a scheme which would not provide a large number of units and I have identified adverse impacts associated with the proposal. When considered together, I afford these adverse impacts significant weight.
57. Consequently, the adverse impacts would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
58. Even if that were not the case, given the harm that would arise to the setting of Ryshworth Hall, the application of Framework policies relating to designated

⁴ Labosport Technical Report - Crossflats Cricket Club – Boundary Risk Assessment November 2020.

heritage assets provide clear reasons for refusing the development proposed. Therefore, in this respect paragraph 11 (d) of the Framework would not be engaged in terms of supporting the proposal.

Conclusion

59. The proposal would conflict with the Framework in that it results in less than substantial harm to the setting of Ryshworth Hall, harm which would not be outweighed by the arising public benefits. This matter weighs against the proposal.
60. There would be a significant adverse impact on the character and appearance of the area as well as a significant adverse effect on the living conditions of future occupiers.
61. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, the appeal should be dismissed.

T J Burnham

INSPECTOR

DOCUMENT SUBMITTED AT HEARING:

Additional comments on behalf of Crossflatts Cricket Club.